



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 21 2016

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL 7009 1680 0000 7648 6910
RETURN RECEIPT REQUESTED

Corporate Creations Network Inc.
Registered Agent for Warren Steel Holdings, LLC
119 East Court Street
Cincinnati, Ohio 33410

Re: Notice of Violation
Compliance Evaluation Inspection and Sampling Event
OHR 000 007 773

Dear Corporate Creations Network Inc.:

On September 17 and September 18, 2013 representatives of the U.S. Environmental Protection Agency and representatives of the National Enforcement Investigations Center (NEIC) inspected the Warren Steel Holdings, LLC facility located in Warren, Ohio (Warren). As a "large quantity generator" of hazardous waste, Warren is subject to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (RCRA). The purpose of the inspection was to evaluate Warren's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on information provided by Warren, EPA's review of records pertaining to Warren, and the inspector's observations, EPA has determined that Warren has unlawfully stored hazardous waste without a permit or interim status as a result of Warren's failure to comply with certain conditions with which a generator must comply in order to qualify for a permit exemption under Ohio Admin. Code 3745-52-34(A)-(C) [40 C.F.R. § 262.34(a)-(c)]. EPA has identified the generator permit exemption conditions with which Warren was out of compliance at the time of the inspection in paragraphs 1- 6, below.

Many of the conditions for a RCRA permit exemption incorporate independent requirements that apply to interim status hazardous waste management facilities that treat, store, or dispose of hazardous waste under Ohio Admin. Ch. 3745-65 [40 C.F.R. Part 265] (TSD requirements). When a hazardous waste generator loses its permit exemption due to a failure to comply with an exemption condition that incorporates a TSD requirement from Ohio Admin. Code Ch. 3745-65, the generator: (a) becomes an operator of a hazardous waste storage facility; and

(b) simultaneously violates the corresponding TSD requirement that applies to interim status facilities (or an analogous requirement that applies to permitted treatment, storage or disposal facilities in Ohio Admin. Code Ch. 3745-54 [40 C.F.R. Part 264]). The generator exemption conditions identified in paragraphs 4 – 6 all incorporate independent TSD requirements from Ohio Admin. Code Ch. 3745-65.

Accordingly, each failure of Warren to comply with these generator exemption conditions is also a violation of the corresponding requirement in either Ohio Admin. Code Ch. 3745-65 [40 C.F.R. Part 265] (if the facility was in existence as of November 19, 1980, and thus should have had interim status), or Ohio Admin. Code Ch. 3745-54 [40 C.F.R. Part 264] (if the facility came into existence after November 19, 1980, and thus should have had a storage permit).

Finally, EPA has determined that Warren violated RCRA requirements related to hazardous waste reports and to universal waste, as described in paragraphs 7 and 8, below.

NON-COMPLIANCE and VIOLATIONS

At the time of the inspection, Warren was out of compliance with the following “large quantity generator” permit exemption conditions:

1. Date When Each Period of Accumulation Begins

Under Ohio Admin. 3745-52-34(A)(2) [40 C.F.R. § 262.34(a)(2)], a large quantity generator must clearly mark each container holding hazardous waste with the date upon which each period of accumulation begins.

At the time of the inspection, Warren maintained two roll-off boxes, storing K061 hazardous waste (emission control dust from the primary production of steel in electric arc furnaces), that were not marked with the date upon which each period of accumulation of hazardous waste began.

One of the roll-off boxes was full and ready for pick-up and the other roll-off box was partially full and contained overflow from a previous collection box that had already been shipped for disposal.

2. Hazardous Waste Container Labeling

Under Ohio Admin. 3745-52-34(A)(3) [40 C.F.R. § 262.34(a)(3)], a large quantity generator must label or clearly mark each container holding hazardous waste with the words, “Hazardous Waste.”

At the time of the inspection, Warren was storing K061 hazardous waste in two roll-off boxes, mentioned in item 1 above, that were not marked with the words, “hazardous waste.” One of the roll-off boxes was full and ready for pick-up and the other roll-off box was partially full and contained overflow from a previous collection box that had already been shipped for disposal.

3. Accumulation of Hazardous Waste Only in Containers, in Tanks, on Drip Pads or in Containment Buildings

Under Ohio Admin. Code 3745-52-34(A)(1) [40 C.F.R. § 262.34(a)(1)], a large quantity generator may accumulate hazardous waste on-site, provided that the waste is placed only in containers, in tanks, on drip pads or in containment buildings.

At the time of the inspection, Warren was accumulating K061 hazardous waste on the ground near the K061 collection area:

Dr. Brad Venner, an NEIC statistician, conducted a statistical analysis of the laboratory data. Dr. Venner concluded that elemental concentration patterns in soil are consistent with contamination by electric arc furnace (EAF) dust. A three-profile non-negative matrix factorization model is consistent with the presence of EAF dust in soil samples ranging from 0.5 to 28 percent. *See*, NEIC Compliance Investigation report, pages 14, 15 and 16, Tables 4, 5, and 6; and appendix E. *See*, Dr. Brad Venner's memo regarding statistical analysis.

The generator permit exemption conditions identified below in paragraphs 4 through 6 are also independent TSD requirements violated by Warren, as noted.

4. Failure to Minimize Possibility of Unplanned Releases of Hazardous Waste

Under Ohio Admin. Code 3745-52-34(A)(4) and Ohio Admin. Code 3745-65-31 [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.31], a large quantity generator must maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. The analogous independent requirement for facilities that came into existence after November 19, 1980 is Ohio Admin. Code 3745-54-31 (40 C.F.R. § 264.31).

At the time of the inspection, Warren failed to minimize the possibility of such an unplanned release of hazardous waste by accumulating K061 hazardous waste on the ground near the K061 loading and collection area; and the K061 loading and collection area, collection boxes, and transfer equipment were dusty, unconfined, open to the elements and not maintained.

5. Weekly Inspections

Under Ohio Admin. Code 3745-52-34(A)(1) and 3745-66-74 [40 C.F.R. § 262.34(a)(1)(i); 40 C.F.R. § 265.174], a large quantity generator that stores hazardous waste in containers must comply with the applicable requirements of subpart I, Use and Management of Containers for hazardous waste placed in containers. Specifically, at least weekly, the owner or operator must inspect areas where containers are stored. The analogous independent requirement for facilities that came into existence after November 19, 1980 is Ohio Admin. Code 3745-55-74 (40 C.F.R. § 264.174).

At the time of the inspection, Warren was not conducting weekly inspections of the K061 collection and storage areas.

6. Training

Under Ohio Admin. Code 3745-52-34(A)(4) and 3745-65-16(A); [40 C.F.R. § 262.34(a)(4); 40 C.F.R. § 265.16(a)], facility personnel of a large quantity generator of hazardous waste must successfully complete a program of classroom instruction or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility's compliance with requirements of RCRA. This program must be directed by a person trained in hazardous waste management procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. The analogous independent requirement for facilities that came into existence after November 19, 1980 is Ohio Admin. Code 3745-54-16(A) [40 C.F.R. § 264.16(a)]. Facility personnel must successfully complete this training program within six months after the date of their employment or assignment to a facility or to a new position at a facility, and must take part in an annual review of this initial training thereafter. *See*, Ohio Admin. Code 3745-52-34(A)(4) and 3745-65-16(B) and (C) [40 C.F.R. §§ 262.34(a)(4); 40 C.F.R. § 265.16(b) and (c)]; the analogous independent requirement for facilities that came into existence after November 19, 1980 is Ohio Admin. Code 3745-54-16(B) and (C) [40 C.F.R. § 264.16(b) and (c)].

With respect to the training program, a large quantity generator must maintain the following documents and records at its facility:

- a. The job title for each position at the facility related to hazardous waste management and the name of the employee filling each job;
- b. A written job description for each position at the facility related to hazardous waste management;
- c. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and
- d. Records that document that the training or job experience described above has been given to and completed by facility personnel.

See, Ohio Admin. Code 3745-52-34(A)(4); 3745-65-16(D) [40 C.F.R. §§ 262.34(a)(4) and 265.16(d)]; the analogous independent requirement for facilities that came into existence after November 19, 1980 is Ohio Admin. Code 3745-65-16(D) [40 C.F.R. § 264.16(d)].

At the time of the inspection, Warren facility personnel had not successfully completed a program of classroom instruction or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility's compliance with requirements of RCRA.

Warren did not have and was unable to provide in response to a request a list of each position at the facility related to hazardous waste management and the name of the employee filling such position(s).

At the time of the inspection, Warren did not have and was unable to provide in response to a request a written description for each position related to hazardous waste management at the facility.

At the time of the inspection, Warren did not have and was unable to provide in response to a request a written description of the type and amount of introductory and continuing training given to employees with duties related to hazardous waste management.

At the time of the inspection, Warren had not conducted annual review of the initial training required and had not conducted training within six months after the date of employment for new employees.

Summary: By failing to comply with the conditions for a permit exemption, above, Warren became an operator of a hazardous waste storage facility, and was required to obtain an Ohio hazardous waste storage permit. Warren failed to apply for or obtain such a permit. Warren's failure to apply for and obtain a hazardous waste storage permit violated the requirements of RCRA and Ohio Admin. Code 3745-50-45 and 3745-50-41 [40 C.F.R. §§ 270.1(c), and 270.10(a) and (d)]. Any failure to comply with a permit exemption condition that incorporates an independent TSD requirement from Ohio Admin. Code Ch. 3745-65 is also an independent violation of the corresponding or analogous TSD requirement.

OTHER VIOLATIONS

Warren also violated the following generator requirements:

7. Hazardous Waste Reports

Under Ohio Admin. Code 3745-52-40(B); [40 C.F.R. § 262.40(b)], a large quantity generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report.

At the time of the inspection, Warren had no record of the hazardous waste reports submitted to the Ohio Environmental Protection Agency (OEPA) for the last three years.

8. Universal Waste Requirement

Under Ohio Admin. Code 3745-273-13(D)(1) [40 C.F.R. § 273.13(d)(1)], a small quantity handler of universal waste must place any universal waste mercury-containing lamps in a closed container.

At the time of the inspection, Warren was not storing waste fluorescent light bulbs in a closed container. At least two containers labeled "Universal Waste," were open during the inspection.

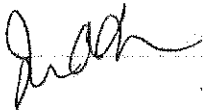
SUMMARY

At this time, EPA is not requiring Warren to apply for an Ohio hazardous waste storage permit so long as it immediately establishes compliance with the conditions for a permit exemption outlined in paragraphs 1-6, above.

According to Section 3008(a) of RCRA, EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both. Although this letter is not such an order under Section 3008 of RCRA and is not a request for information under Section 3007 of RCRA, 42 U.S.C. § 6927, we request that you submit a response in writing to us no later than thirty (30) days after receipt of this letter documenting the actions, if any, which you have taken since the inspection to establish compliance with the above conditions and requirements. You should submit your response to Jamie L. Paulin, U.S. EPA, Region 5, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604.

If you have any questions regarding this letter, please contact Ms. Paulin, of my staff, at 312-886-1771 or at paulin.jamie@epa.gov.

Sincerely,



For/Gary J. Victorine, Chief
RCRA Branch

Enclosure

cc: Teri.Finfrock@epa.ohio.gov